93-673
No. _____

Supreme Court, U.S.
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IN THE

Supreme Court of the United States

October Term, 1993

PATRICE DICKINSON,
Petitioner,

vs.

OHIO BELL COMMUNICATIONS,
Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

BRIEF FOR RESPONDENT

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QUESTION PRESENTED FOR REVIEW

Whether, irrespective of the retroactivity of the Civil Rights Act of 1991, a Title VII claimant has a right to a jury trial where the district court in which the action is filed concludes as a matter of law that the claimant cannot establish a *prima facie* case of discrimination?

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BRIEF FOR RESPONDENT

REASONS FOR DENYING PETITION FOR A WRIT OF CERTIORARI

The District Court concluded, and the Court of Appeals affirmed, that as a matter of law petitioner failed to establish even a *prima facie* case of discrimination. *See* 7/7/93 *Per Curiam* Opinion of the Sixth Circuit Court of Appeals (copy appended as Appendix A to Petition for Certiorari) at A-3. Petitioner is not appealing that conclusion to this Court.

Whatever its retroactive effect, the Civil Rights Act of 1991 does not suspend or otherwise limit a district court's power to grant a directed verdict. Even if this Court remands this action for a jury trial, the District Court must still determine whether petitioner has established a *prima facie* case of discrimination in order to go to the jury. The District Court has already held that petitioner cannot do so.

The evidence is insufficient to allow this case to go to a jury. Consequently, this Court's decision on the retroactivity of the jury trial provision of the Civil Rights Act of 1991 will not change the disposition of this case.

CONCLUSION

For the foregoing reasons, and for any additional reasons which may hereafter appear, the Petition for a Writ of Certiorari should be denied.

Respectfully submitted,

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